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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,376	01/11/2006	Kazuhito Kurita	112857-508	9271
29175 7590 08/04/2008 BELI., BOYD & LLOYD, LLP P. O. BOX 1135 CHICAGO, IL 60690				
EXAMINER				
KIJMOWICZ, WILLIAM JOSEPH				
ART UNIT		PAPER NUMBER		
2627				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,376

Applicant(s)

KURITA ET AL.

Examiner

William J. Klimowicz

Art Unit

2627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed January 11, 2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamaya et al. (JP 11-339426 A).

As per claims 1, 2 and 6, Kamaya et al. (JP 11-339426 A) discloses a shutter unit for a disc cartridge (e.g., 71 - see FIGS. 17-20) comprising: a shutter unit (75) for opening/closing an aperture (73) of a disc cartridge (71), having a disc (70) accommodated in the inside thereof, said aperture (73) serving for exposing a portion of a recording area of said disc (70) to outside; a lock unit (81-83, 85-88) rotationally mounted to said shutter unit (75) and adapted for rotationally engaging with an engagement part (84) provided to said disc cartridge (71); and

biasing means (76) for biasing said shutter unit (75) in a direction of engaging said lock unit (81-83, 85-88) with said engagement part (84).

Additionally, as per claim 2, the disc cartridge (71) comprises: a disc (70); a main cartridge body unit (71) having said disc (70) rotatably housed therein and including the aperture (73) for exposing a part of said disc (70) across the inner and outer rims of the disc (70); and a biasing member (83) for biasing said lock unit (81-83, 85-88) in a direction of engaging with said engagement part (84).

As per claim 3, wherein said lock unit (81-83, 85-88) is rotated by a shutter unit movement controlling means (e.g., 93, 94) so as to be disengaged from said engagement part (84), said shutter unit movement controlling means (93, 94) being mounted to a recording and/or reproducing apparatus for controlling the movement of said shutter unit (75) relative to said main cartridge body unit (71).

Additionally, as per claim 6, a recording and/or reproducing apparatus is provided, including the device for opening the shutter unit (93), comprising: a cartridge holder (e.g., the means with the apparatus for securely holding the cartridge (71) while the shutter is opened) into which is inserted the disc cartridge (71) including the disc (70), the shutter unit (75) mounted movably to said main cartridge body unit (71) for opening or closing said aperture (73), the lock unit (81-83, 85-88) for locking said shutter unit (75) in a position of closing said aperture (73), the engagement part (84) provided to said main cartridge body unit (71) for engagement by said lock member (81-83, 85-88), and a biasing member (83) for biasing said lock unit (81-83, 85-88) in a direction of engaging with said engagement part (84); a shutter unit movement controlling part (e.g., 93, 94) provided to one side (i.e., a side, any side) of said cartridge holder; and a

recording and/or reproducing unit (means for reading/recording from disc (70)) for recording and/or reproducing the information for said disc cartridge (71) introduced into said cartridge holder; said lock unit member (81-83, 85-88) being rotated by said shutter unit movement controlling part (93, 94) when said disc cartridge (71) is introduced into said cartridge holder to release the engagement by said engagement part (84).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamaya et al. (JP 11-339426 A) in view of Shimazaki (JP 2001-357650 A).

See the description of Kamaya et al. (JP 11-339426 A), *supra*.

As per claim 4, Kamaya et al. (JP 11-339426 A) remains silent with respect to wherein an inserting end of said main cartridge body unit into said recording and/or reproducing apparatus is a substantially semicircular arcuate section, centered about the center of said disc, accommodated in said main cartridge body unit, said aperture being formed for opening to a lateral side of said main cartridge body unit other than the lateral side formed as said arcuate section.

Such structure, however, is well known. As just one example, Shimazaki (JP 2001-357650 A) discloses an analog disk cartridge (1) in which an inserting end (at (b) in FIG. 3) of a main cartridge body unit (1) into a recording and/or reproducing apparatus is a substantially semicircular arcuate section (e.g., see FIGS. 1-5), centered about the center of a disc (2), accommodated in said main cartridge body unit (1), a disk aperture (at (3)) being formed for opening to a lateral side of said main cartridge body unit (1) other than the lateral side formed as said arcuate section (at (b)).

Additionally, as per claim 5, wherein the shutter unit (3) is moved along the lateral side of said main cartridge body unit (1) other than the lateral side formed as said arcuate section for opening/closing said recording and/or reproducing aperture (at (3)).

Given the express teachings and motivations, as espoused by Shimazaki (JP 2001-357650 A), it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the disk cartridge structure as set forth in claims 4 and 5, as disclosed by Shimazaki (JP 2001-357650 A), to the cartridge of Kamaya et al. (JP 11-339426 A).

The rationale is as follows: one of ordinary skill in the art would have been motivated to provide the disk cartridge structure as set forth in claims 4 and 5, as disclosed by Shimazaki (JP 2001-357650 A), to the cartridge of Kamaya et al. (JP 11-339426 A) in order to prevent erroneous insertion of a cartridge into a device which opens the shutter from the side of the cartridge reproducing device, as taught by Shimazaki (JP 2001-357650 A).

Response to Arguments

Applicant's arguments filed June 19, 2008 have been fully considered but they are not persuasive.

The Applicant alleges that Kamaya et al. (JP 11-339426 A) fails to disclose wherein element (81) functions to provide "rotational engagement" with an engagement part of a disc cartridge.

While the Applicant's point is well taken, the Examiner disagrees based on how the Examiner is applying Kamaya et al. (JP 11-339426 A) to the invention, as is presently claimed.

More concretely, Kamaya et al. (JP 11-339426 A) discloses that the lock unit (81-83, 85-88) is rotationally mounted to said shutter unit (75). Moreover, the lock unit, which is comprised of elements (81-83, 85-88), does indeed provide for rotational engagement with an engagement part (84) provided to the disc cartridge (71).

The term engagement ***does not require that a particular component*** of the lock unit, e.g. 85, ***contact*** the engagement part (84), in a rotational manner, but merely that the lock unit itself, as a whole, interlock with or have a coordinated action that involves a "rotational" aspect of the lock unit during its locking function when engaging part (84). Clearly the lock unit (81-83, 85-88) is allowed to pivot or rotate about a pin-axis (86) during the "rotational engagement" between cartridge part (84) and lock unit (81-83, 85-88). That a particular component of the lock unit translates or has some other motion in addition to the requisite "rotational" motion, is not dispositive, since the claims do not require that the elements comprising the lock unit consist solely of rotational motion.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); *cert. dismissed*, 468 U.S. 1228 (1984); *W.L. Gore and Associates, Inc. v. Garlock, Inc.*, 72.1 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

The Examiner, as clearly articulated in the rejection, *supra*, has set forth a one-to-one correspondence with each and every element of the *claimed* invention. More concretely, as recited MPEP§2106:

Office personnel are to give claims their ***broadest reasonable interpretation*** in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). ***Limitations appearing in the specification but not recited in the claim are not read into the claim.*** *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (“During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow. . . . The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed. . . . An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.”). [Emphasis in bold italics added].

Moreover, one must also bear in mind that limitations contained within Applicant’s arguments cannot be read into the claims for the purpose of avoiding prior art. *In re Sporck*, 386 F.2d 924, 155 USPQ 687 (CCPA 1968).

As set forth in the MPEP§ 706, “the standard to be applied in all cases is the “preponderance of the evidence” test. In other words, an examiner should reject a claim if, in

view of the prior art and evidence of record, it is more likely than not that the claim is unpatentable.” Clearly, the Examiner has established that one of ordinary skill in the art would *reasonably* construe the one-to-one correspondence with each and every element of the *claimed* invention, in the manner set forth in the rejection, *supra*, by at least the *preponderance* of the evidence.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (571) 272-7577. The examiner can normally be reached on Monday-Friday (7:30AM-6:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William J. Klimowicz/
Primary Examiner, Art Unit 2627